

## MEMO TO FILE

07/02/2012

Regarding: 202 E Maryland St. and Property Owner Mr. James R Stark Jr.

### Introduction

SulTRAC has been retained by the United States Environmental Protection Agency (EPA) on the Jacobsville Neighborhood Soil Remediation Project, Project Number S175-RARA-B51Z. SulTRAC has retained subcontractor Lawson Environmental Services, LLC (LES) to provide project coordination, soil remediation, and restoration services.

During the project, the EPA, SulTRAC, and LES have been in contact with the property owner Mr. James R Stark Jr. (Mr. Stark) of 202 E Maryland St. Evansville, Indiana regarding remediation at the above noted property. Please note that Mr. Stark is often mistakenly referred to as "Mr. Starks" or "Starks" in conversation and correspondence. Mr. Stark had initially agreed and signed an access agreement (Attachment 1) with the EPA and agreed and signed a restoration agreement with LES. Mr. Stark has changed his mind regarding access and restoration multiple times including an amendment to the initial restoration agreement (Attachment 2). Since the initial amendment, Mr. Starks has provided verbal direction to the EPA, SulTRAC, and LES regarding access and restoration of his property and has refused to commit to writing. 202 E Maryland St. was placed on an internal hold list by LES since 05/17/2012 until a LES and SulTRAC could meet with Mr. Stark and amend his restoration agreement. Mr. Stark has never indicated what items he wanted amended on the restoration agreement. Due to an internal miscommunication, LES placed 202 E Maryland St. back on their active remediation list, gave a 48 hour notice, and started remediation on 06/18/2012. Mr. Stark initially stopped remediation work. Following a brief meeting with LES and SulTRAC, he allowed work continue without alteration of the restoration agreement.

Following completion of the contaminated soil excavation of 202 E Maryland St., Mr. Stark then stopped work and subsequently contacted LES and the EPA and has demanded out of scope improvements to be made to his property. These requests and demands include repairs to items damaged during remediation, improvements to be made to the damaged items, and additional work and improvements to be performed by LES on neighboring vacant lots. These vacant lots are not included in the EPA scope of work and SulTRAC or LES do not have access to perform work on those properties. Additionally, Mr. Stark has requested LES to provide improvements to Not Responsive ..., a property that he does not own.

Below is a list of Mr. Stark's requests and demands. Mr. Stark has constantly altered, reneged and modified his claims, and has also suggested other possible claims. Therefore in summary:

- Replace entire chain link fence in his back yard (not only portions removed/damaged by LES)

- In lieu of chain link fence, provide a 6' wooden privacy fence, and this fence will include portions of the vacant lot to the east and Not Responsive to the west (not Mr. Stark's property)
- Provide a swing gate and gravel parking lot on adjacent lot to the east
- Replace his air conditioning unit or have it cleaned
- Remove and replace concrete sidewalks and walk ways
- Grade and re-seed two vacant lots to the east and west
- Remove large magnolia tree in his back yard
- Detail his car
- Cut excavation near his shed to 90 degrees
- Clean the swimming pool on the adjacent lot and replace the water
- Suggested that he could demand a new concrete driveway, car port, or garage.

Mr. Stark has made threats and suggestive statements that could be interoperated as threats to SulTRAC and LES employees. These threats include:

- Bodily harm if on/near his property
- He has a concealed carry weapons permit
- Has voice recordings of all phone calls
- Has video and voice recordings of all activities conducted at his property
- Has assaulted persons entering his property
- His family and pets are open to "attack"
- Constantly makes the statement "have proof" or "can be proven."
- Constantly refers that his "Constitutional rights have been violated" and "No judge will rule against my rights."
- Claims he has knowledge of mistakes made by the EPA in the past
- Claims he has information that the EPA has caved into the demands from property owners in the past
- If LES does not comply with his demands, he will:
  - contact local and national media with information
  - contact EPA headquarters
  - contact a lawyer and file a law suit
  - talk to other property owners and

Due to the nature of Mr. Stark's threats and his demands for out of scope work. SulTRAC referred the situation to the EPA for direction. The EPA then directed SulTRAC not to provide items out of scope. Currently the property is backfilled with erosion control devices in place. Sod and/or other restoration has not taken place.

**Timeline:**

Below is a table timeline of contact with Mr. Stark with a detailed summary below the table.

Date	Description
05/09/2012	Restoration agreement made at 202 E Maryland St. with Mr. James R Stark Jr.
05/11/2012	Restoration agreement amended by Mary Myrick and James Stark, notated on original.
Unknown	Mr. Stark contacted Mary Myrick and said he changed his mind.
Unknown	Mr. Stark contacted EPA, complained about LES and Mary Myrick
05/16/2012	Mr. Stark sent Mary Tierney (EPA) an email referring to his decision not to have remediation work done and attached photos of sod from other properties on the project.
05/16/2012	Mary Tierney told SulTRAC verbally that property owners were complaining about LES
05/17/2012	During a Progress Meeting, Mary Tierney described conversation that she had with Mr. Stark. The Progress Meeting included LES, SulTRAC and EPA.
05/19/2012	Chris Dietrich (SulTRAC) and Marcos Mateus (LES) met Mr. Stark while at a restoration agreement meeting with Mr. Stark's father, James Stark Sr. Mr. Stark Jr. changed his mind on the remediation but wanted to meet before work was done.
05/22/2012	Mr. Stark notified Chris Dietrich that he was trying to contact Mary Tierney
05/29/2012	Mr. Stark notified Chris Dietrich that he would be unavailable to meet for the next two weeks but would contact when he would be available.
Unknown	LES contacted Mr. Stark to schedule a meeting and he said he was not available.
Unknown	202 E Maryland moved from LES hold list to active list by miscommunication.
6/18/2012	LES started excavation on the property. Work was stopped by Mr. Starks, then was resumed with permission. Excavation complete.
06/19/2012	Mr. Stark contacted Chris Padilla of LES in person and wanted to discuss additional work he wanted done. There was no discussion of the items and he was told to wait until Marcos Mateus could meet with him.
06/21/2012	Mr. Stark met with Chris Padilla and Marcos Mateus and gave list of demands and possible outcomes if not agreed to. Refused permission to backfill property.
06/22/2012	LES forwarded a list of Mr. Stark's demands to SulTRAC. SulTRAC notified EPA.
06/25/2012	Certified arborist gave assessment of the tree in the back yard and concluded that it is unlikely to fail within the next five years. Mr. Stark gave SulTRAC permission to backfill property.
06/25/2012	Brief conference call between EPA, SulTRAC, and LES
06/26/2012	Detailed conference call between EPA, SulTRAC and LES
06/26/2012	LES backfilled property.
06/26/2012	LES contacted Mr. Stark. Mr. Stark gave list of demands, threats, and refused LES, SulTRAC or EPA access to the property.
06/27/2012	County register of deeds shows Not Responsive . is not owned by Mr. Stark.
06/27/2012	LES contacted Mr. Stark and notified him that the EPA has directed them not provide out of scope work and for him to contact the EPA and their discussion on the fence is over. Mr. Stark made additional demands and threats.
06/27/2012	SulTRAC notified EPA of the phone conversation exchange.
06/28/2012	SulTRAC notified EPA during a progress meeting that Mr. Stark had tried to contact LES. SulTRAC or LES will not be contacting Mr. Stark unless directed by EPA.

### **Detailed Description of Timeline:**

**05/09/2012**

Mary Myrick of LES and Chris Ore of SulTRAC met with property owner Mr. James R Stark Jr. (Mr. Stark) of 202 E Maryland St. Evansville, IN (site) for restoration agreement. During the restoration agreement, Mr. Stark expressed he wanted the tree in his back yard removed, along with additional demands that were out of scope. Mary Myrick explained to Mr. Stark that LES is not allowed to remove the tree or provide improvements out of scope. An agreement was reached where if LES removed his concrete walkway, which was in poor condition and would most likely be damaged during excavation, he would provide edging if it was replaced with gravel. Mr. Stark was not happy that the tree would not be removed but signed the access agreement without incident.

**05/11/2012**

Mary Myrick returned to the site to take additional photographs and met Mr. Stark in person. Mr. Stark said he changed his mind on part of the restoration and amended moving the shed and allowing LES access to his basement to photograph for foundation damages. These changes were noted on the original restoration agreement and initialed by Mr. Stark and Mary Myrick.

**Dates unknown, between 05/11/2012 and 05/17/2012**

Mr. Stark contacted Mary Myrick by telephone and told her that he had changed his mind on the restoration. Mrs. Myrick told him that she was busy at the time and would call him back. She called him back and he did not answer. Following his conversation with Mrs. Myrick, Mr. Stark contacted RPM Mary Tierney of EPA by telephone.

**05/16/2012**

Mr. Stark sent Mary Tierney and email with his opinion of the project and photos. Following a meeting on an un-related project, Mary Tierney told Chad Gibson of SulTRAC that property owner(s) were calling the EPA and complaining about LES.

**05/17/12**

During a scheduled progress meeting, Mary Tierney said that a property owner had called the EPA and complained about the quality of the sod and general workmanship by LES on the project. She also said that the LES Assistant Site Coordinator, Mary Myrick told the property owner to bribe the contractors to get extra work done, that Mary was threatening to him, and had additional comments. Mary Tierney then forwarded photographs to SulTRAC of the sod the property owner complained about. LES identified the property as Not Responsive. Following the meeting, LES followed up the property owner of Not Responsive who said he was happy with the sod. There was a bad joint in the sod and

an edge that was sloppy so LES repaired the sod under warranty. Chris Ore provided an account of his meeting with Mr. Stark.

#### **05/19/2012**

Chris Dietrich of SulTRAC and Marcos Mateus of LES visited property Not Responsive and met with property owner Not Responsive. is the father of Mr. James Stark Jr. During the restoration agreement Not Responsive, expressed concerns about the remediation and questioned why SulTRAC was only remediated a small portion of his property and he was under the impression that his whole property would be remediated and restored. Mr. Dietrich and Mr. Mateus explained the sampling procedures and scope of the project. Not Responsive accepted the explanation and agreed to restoration. During the meeting, Mr. Stark (Jr) arrived and joined the meeting. Mr. Stark Jr. explained he was not happy with the way he was treated by Mary Myrick and had numerous other complaints. He also stated that he has been photographing LES operations and had had documented violations, saying that the contractor was required to install safety fencing at all properties. After Mr. Dietrich and Mr. Mateus discussed the program with him, Mr. Stark Jr. agreed to proceed with the remediation. He said he wanted to contact Mary Tierney first and let her know he was happy and wanted to schedule a restoration agreement meeting to amend the original agreement. He did not state what the changes he wanted to make were.

#### **05/22/2012**

Mr. Stark contacted the SulTRAC project office by telephone and Chris Dietrich answered the phone. Mr. Stark said that he has been trying to contact Mary Tierney of the EPA but she has not returned his call. Mr. Dietrich explained that Mrs. Tierney was very busy with meetings and had a large backlog. Mr. Dietrich said that he would email Mrs. Tierney and tell her he was willing to move forward with restoration and would follow up with her on the next progress meeting. He was satisfied with that answer and said we could meet with him next week.

#### **05/29/2012**

Mr. Stark contacted Chris Dietrich at the SulTRAC project office by telephone. He said that his father has been having health issues and he would be too busy to meet and would contact us when he was ready. He said he expected to be ready in two weeks.

#### **Dates unknown, early June 2012**

Marcos Mateus of LES contacted Mr. Stark to schedule a meeting. Mr. Stark said that he was still dealing with his dad's health issues but would want to meet possibly next week.

202 E Maryland St. was mistakenly taken off of the hold list by LES and put in back on the active property list and scheduled for remediation.

**06/15/2012**

Chris Padilla of LES gave 48 hour notification to Mr. Stark that his property would be remediated. He left a voice message on his telephone and knocked on the door. No one answered.

**06/18/2012**

At approximately 0900, LES excavation team arrived at 202 E Maryland and prepared the property for remediation, which included removing the rear portion of the fence in the back yard for access. They then proceeded to excavate. Aaron Stanton of SulTRAC supervised preparation of the property and then left the site to go to the SulTRAC project office. At the SulTRAC project office, Mr. Stanton mentioned to Chris Dietrich that he was working on 202 E Maryland St. Mr. Dietrich asked him why they were working on that property and he said he did not know and Mr. Dietrich informed him that that property was on hold. Mr. Stanton then immediately left the office and returned to the site. Mr. Dietrich then informed Marcos Mateus that LES was working on that property. Mr. Mateus then said he would visit the site immediately. Mr. Stanton then informed Mr. Dietrich that Mr. Stark had stopped work at the site. Mr. Dietrich then left the project office and went to the property. When Mr. Dietrich had arrived, work had resumed. Chris Ore of SulTRAC and Mr. Mateus were also at the site. Mr. Dietrich asked Mr. Stark if we needed to amend the restoration agreement. He said no and indicated that he was happy. Mr. Stark made observations that he was aware that during previous work on the project that air conditioning units were damaged due to dust and had to be replaced. He also acknowledged that he received the 48 hour notice on his answering machine but chose to dismiss it because he thought the message was from Chris Dietrich. Excavation continued without incident however Mr. Stark continued to talk to the field crew and Mr. Stanton during the day. During these conversations he gave various observations of the project and expressed his desire to have the tree removed and have a privacy fence installed.

**06/19/2012**

Mr. Starks contacted Chris Padilla and requested a meeting to discuss demands. Mr. Padilla told Mr. Stark that Marcos Mateus had briefly left town and would re-schedule when he returned.

**06/21/2012**

Marcos Mateus and Chris Padilla met with Mr. Stark at his property at 1730. Mr. Stark gave LES a list of demands of improvements to his property. During this conversation, Mr. Stark made remarks that suggested that if LES did not comply with his demands, he would alert the media, alert the EPA, or start

a class action law suit with other disgruntled property owners. He also said LES does not have permission to backfill the property unless LES agrees to his demands. LES made an arrangement with Mr. Stark that they would not backfill the property until they have a certified arborist give an assessment of the tree. LES Project Manager Carlton Lehman notified SulTRAC of the incident and Mr. Stark's demands. Mr. Dietrich of SulTRAC directed LES to provide a summary of Mr. Stark's demands to SulTRAC.

**06/22/2012**

LES provided an email to SulTRAC outlining Mr. Stark's demands. The demands included out of scope items, including removing the tree in his backyard and installing privacy fence in his back yard, and re-grade and seed/straw two vacant lots adjoining his property to the east and west. SulTRAC notified EPA RPM Mary Tierney and forwarded her the email from LES.

**06/25/2012**

LES retained a certified arborist to give an assessment of Mr. Stark's tree. The arborist met with the property owner with SulTRAC, LES, and EPA representatives present. The arborist's conclusion was that the tree was unlikely to fail in the next 5 years. Mr. Stark agreed with the assessment but then started to reiterate his demands, including the fence. Mr. Stark explained that he wants the fence to enclose his existing back yard and portions of his neighboring lots to the east and west. These lots are not included in the list of properties for remediation.

**06/25/2012**

Conference call between Mary Tierney EPA, Cory Reiter SulTRAC, Chris Dietrich SulTRAC, Chris Ore SulTRAC, Marcos Mateus LES, Carlton Lehman LES, and Chris Padilla LES. During the meeting SulTRAC and LES explained the list of demands to EPA. EPA directed SulTRAC not to allow LES to provide improvements out of scope and scheduled a follow up conference call to discuss the matter further.

**06/26/2012**

Conference call conducted at 1530 between EPA, SulTRAC, and LES. During the call, Mr. Stark's demands were discussed at depth and the EPA directed SulTRAC not to provide out of scope items, backfill the site and continue restoration, and refer all additional demands by Mr. Stark to the EPA. Meeting minutes were taken. LES then proceeded with backfilling the site. LES then contacted Mr. Stark at 1900 by telephone to notify him that they have been directed not to install out of scope items. During the conversation Mr. Stark refused access to LES, SulTRAC, or EPA for any reason. He said that only Marcos Mateus may visit his site but only for the purpose of agreeing to provide him a privacy fence.

**06/27/2012**

Inquiry by Dave Novak of EPA with the Vanderburgh County register of deeds showed that the vacant lot west of 202 E Maryland St., Not Responsive, was not owned by Mr. Stark. Marcos Mateus contacted

Mr. Stark at 1100 and notified him that LES will not be providing out of scope improvements. Mr. Stark refused access to his property by EPA, SulTRAC, and LES to anyone for any reason. Mr. Stark also stated that LES left his property unsecured but refused to allow LES to secure the property. LES instructed Mr. Stark to contact the EPA for any continued requests or demands.

**06/28/2012**

Mr. Stark called Marcos Mateus and left a voice mail requesting to call him back at 1030. During a scheduled progress meeting with EPA, IDEM, SulTRAC, and LES, the situation with Mr. Stark was discussed at depth. EPA concluded that they would contact Mr. Stark and that SulTRAC and LES should not contact Mr. Stark unless directed by the EPA. Following the progress meeting, Mr. Stark confronted a LES employee and told him to stay away from his property, including the public right of way in front of his property. Mary Tierney contacted SulTRAC and informed them that the EPA had a conversation with Mr. Stark and requested that LES secure the site with orange safety fencing as agreed with Mr. Stark. SulTRAC contacted LES and they secured the portion of the property where they had removed a chain link fence for access.

**06/30/2012**

As of 06/30/2012, Mr. Stark has not contacted SulTRAC or LES.